

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

JUL 11 2013

BY OVERNIGHT DELIVERY

Pebble Lane Associates, et al.  
C/o Peter Sullivan, Esq.  
Sullivan Gardner PC  
7 East 20<sup>th</sup> Street  
New York, NY 10003

Re: 57-00 Maspeth Avenue, LLC, Pebble Lane Associates Emilio Lamanna and Sabatino Lamanna: Newtown Creek Superfund Site, Kings County and Queens County, New York  
Supplemental Request for Information Pursuant to the Comprehensive Environmental  
Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675

Dear Mr. Sullivan:

By letter dated March 20, 2013, EPA sent a request for information pursuant to CERCLA Section 104(e) ("EPA Request for Information") to Maspeth Avenue LLC, Pebble Lane Associates, Emilio Lamanna and Sabatino Lamanna relating to the Newtown Creek Superfund site. A copy of the EPA Request for Information is provided as an attachment to this letter for your convenience. EPA received the response of Pebble Lane Associates, Inc., certified May 29, 2013 by Emilio Lamanna, Vice President of the corporation ("Companies' Response"). EPA is writing to you, as the person designated to receive future communications from EPA regarding the Companies' relationship to the Newtown Creek Superfund site.

Certain of the responses in the Companies' Response were incomplete or otherwise did not adequately address EPA's Request for Information. Additionally, the Companies stated in their response that they would send a supplementary response to address certain questions. EPA is writing to identify areas where additional response is required by the Companies. The Directions and Definitions provided with EPA's Request for Information shall apply also to this letter except that the definition of the term "Companies" in item 7.b of the Definitions shall be modified to add 57-00 Maspeth Avenue, LLC and 57-00 Maspeth Avenue Corp. and to delete Maspeth Avenue Corp. A complete and truthful response to this Supplementary Request for Information should be prepared, signed, certified and submitted to EPA, on behalf of the Companies, within 30 days of your receipt of this letter.

Accordingly, please supplement or complete the responses to the following questions as provided below.

1. With respect to EPA Request for Information question 1:
  - a. Please address “57-00 Maspeth Avenue, LLC” and “57-00 Maspeth Avenue Corp.” as additional entities listed in Paragraph 1.f of EPA’s Request for Information and please supplement the Companies’ Response to question 1 to address such entities.
  - b. Please address inter-company relationships and affiliations for each entity and person covered by Paragraph 1.f (including 57-00 Maspeth Avenue, LLC, 57-00 Maspeth Avenue Corp., Almar Supplies, Inc., Emilio Lamanna and Sabatino Lamanna).
2. With respect to EPA Request for Information question 3:
  - a. Please address 57-00 Maspeth Avenue, LLC, 57-00 Maspeth Avenue Corp. and Almar Supplies, Inc. in your response to question 3.
  - b. As requested by EPA Request for Information question 3.b, please provide the dates of acquisition and disposition of the Companies’ ownership and operational interests in the Facility.
  - c. As requested by EPA Request for Information question 3.c., please provided copies of deeds evidencing the sale and disposition of the Facility and all leases relating to the operation of the Facility (for leases, the Companies may redact the financial terms and conditions).
  - d. As requested by EPA Request for Information question 3.b, please specify the dates of acquisition, disposition and operation at the Facility of all entities and persons enumerated in Question 1.f., as amended by this letter (including 57-00 Maspeth Avenue, LLC, 57-00 Maspeth Avenue Corp., Pebble Lane Associates, Inc., Emilio Lamanna, Sabatino Lamanna, Alfredo Lamanna Trucking Inc. and Almar Supplies, Inc.) at the Facility.
  - e. The Companies’ Response to question 1 stated that the Pebble Lane Associates assets were sold in 2009 and that entity is now a non-operating company. The Companies’ Response to question 3.a stated that Pebble Lane Associates operated a fill material transfer station at the Facility from 1998 through 2009. Please supplement the Companies’ Response: i) to identify the nature of the assets sold (whether trucking business assets, or waste handling assets, or assets of other business operations that may have been conducted at the Facility); ii) to identify the purchaser of the assets, iii) to state whether the purchaser was related or affiliated with the entities identified in Question 1.f (as amended by this letter); iv) to state whether the assets that were sold continued to be utilized or employed at the Facility by the buyer (or by someone else); and vi) to state the current activities and the identification of the current operator of the Facility.
  - f. Google Earth images (see Paragraph 6 of this letter, below) shows continuous active trucking operations at the Facility between at least 1994 and 2012 and also shows what appears to be continuous material handling in that same time period.

Please clarify the Companies Responses 1 and 3 to identify all entities that presently or formerly conducted trucking operations, fill collection and transfer operations and any other business operations at the Facility during the period that the Companies, or any of them, owned or operated at the Facility.

3. The Companies Response to Question 3 identified Island Transportation Corp. as a former owner and lessor of a portion of the Facility. Please clarify response 3 to state whether the Companies leased any portion of the Facility from Island Transportation Corp. or to Island Transportation Corp. Describe the operations, if any, carried on by Island Transportation at the Facility, identify the commencement and termination dates of the lease, and provide a copy of any such lease.
4. The Companies' Response item 4 states that "the property was operated as a fill material transfer station and office use" with occasional vehicle parking and maintenance and that all activity on the property by Respondents ceased upon the sale of the property in 2009. Google Earth historic images of the property (examples attached with image dates 3/31/2008 and 6/23/2012) show what appears to be active operations from 1994 (the earliest available image) through November 2012 (the latest available image). The image depicts what appears to be continuous and substantial trucking operations on paved ground as well as materials handling operations (perhaps fill transfer or waste handling) on unpaved ground throughout the period. Please clarify the Companies Response item 4 by i) more completely describing the fill material operations (for example, identify the nature of the fill material (e.g., metals (and types of metals), stones, dirt, etc.)) handled at the Facility, generically identifying the sources of fill materials received at the Facility, identifying the nature of materials not accepted at the Facility, the fate of materials received (e.g., storage, sale, disposal) and generic identification of the end users or the places where materials were sent for disposal; and ii) more completely describing vehicle operations (for example, identify the role the Companies' vehicles and other vehicles assume in operations at the Facility; describe trucking operations conducted at the Facility; and iii) identifying the time periods for trucking operations and fill operations at the Facility.
5. Please provide a copy of the Facility Plan and historic photos requested in EPA Request for Information questions 5 and 6.
6. With respect to EPA Request for Information question 7 and the Companies Response to item 7, please furnish a copy of a real property survey of the property if in the Companies' possession.



7. In response to EPA Request for Information question 12, the Companies' Response stated that "all storm water is retained on site in the fill piles and three retention tanks". Please clarify what is meant by retaining storm water "on site in the fill piles" and describe how the fill piles capture storm water, the capacity of the fill piles, the means of emptying water from the fill piles and identify the fate of the water in the fill piles. Please identify on the Facility Plan the lateral extent of the fill piles and please also identify the material in each fill pile (metals, rock, construction and demolition materials, etc.). Please identify the "three retention tanks" mentioned in Companies' Response to Question 12 and describe how storm water is ultimately drained or disposed from the fill piles and retention tanks. Please also identify and describe each of the three retention tanks and state for each: i) where at the Facility it is located, ii) whether it is below or above ground; iii) the capacity of such tank; iv) how storm drainage is directed into each such retention tanks, v) how each retention tank is emptied; vi) all permits associated with each such tank; and vi) provide a copy of all drawings, reports and studies addressing the working of the fill piles and retention tanks for storm water retention.
8. The Companies stated in response to EPA Request for Information question 11 concerning placement of fill at the Facility "during the period of the ownership or operation by the Companies," that the "Respondents have not filled the property." Please clarify whether fill was placed at the Facility during the Companies' ownership or operation by someone other than Respondents and, if so, identify the circumstances of such fill placement. Please note that New York State Department of Environmental Conservation ("NYSDEC") alleged in its Complaint (R-220061227-560, February 13, 2008), a copy of which was submitted to EPA as part of the Companies' Response, that "Respondents engaged in the following regulated activities at the Site without having a NYSDEC permit to do so: a) placement of fill, consisting of soil, sand, gravel, rocks, concrete, construction demolition debris and similar material) in a regulated tidal wetland and tidal wetland adjacent area." Please indicate on the Facility Map the areas of the Facility where NYSDEC alleged fill placement took place.
9. Please identify all pipes, conveyances and other direct discharge point sources from any place at the Facility into Newtown Creek. Please show each such conveyance on the Facility Plan, identify the source or sources of the influent, provide a copy of all sampling of effluent and identify all permits, if any.
10. Please provide a response to EPA Request for Information questions 13, 14, 34 and 38.
11. In response to EPA Request for Information question 19 concerning vehicles at the Facility, the Companies addressed payloaders but did not address trucks or other vehicles. Please address all vehicles utilized at the Facility. See Paragraph 2.f above documenting

substantial truck usage at the Facility. Please supplement the Companies' Response to Question 19.b to address all vehicles used at the Facility.

12. EPA Request for Information question 25 seeks allegations made against the Companies by regulatory authorities for contamination at the Facility. The Companies' Response referred to a complaint by NYSDEC submitted with the response and characterized the Complaint as "concerning the falling of a single 3'x3'x6' concrete block into Newtown Creek for less than 48 hours". The Complaint submitted to EPA as Exhibit A of the Companies' Response, however, did not appear to make allegations concerning a single concrete block, but rather detailed numerous other violations at the Facility including placement of fill in regulated tidal wetlands areas and adjacent areas, construction of a retaining wall in such areas, operating a solid waste management facility at the Facility in violation of laws or regulations and allowing leachate from the Facility to migrate to surface water. Please supplement the Companies' Response to Question 25 in order to identify what paragraph of the Complaint addressed the 3x3x6 concrete block and clarify whether there were other allegations of environmental contamination other than the 3'x3'x6' concrete block. Please see also clarify the Companies' Response items 31 and 36 with respect to the 3'x3'x6' concrete block.
13. EPA Request for Information question 26 asks whether the Companies ever provided notice to New York State about spills or releases at the Facility and, if so, to describe each spill or release, and the question also directs the Companies to provide copies of all communications between the Companies and the regulatory agency. EPA Request for Information question 27 asks whether there have ever been removals of contaminated soil at the Facility and, if so, to provide information concerning such activities, to provide copies of relevant documents and to show the location of such activities on the Facility Plan. In the Companies' Response as to whether there were such spills (Question 26) or soil removals (Question 27), the answer was "No". However, it appears that there was at least one such spill and at least one such soil removal activity at the Site. Attached is a copy of a NYSDEC Spill Report at the Facility which documents the removal of 381 tons of contaminated soils at the Facility in response to a spill. Please clarify the responses to questions 26 and 27 concerning spills and soil removal at the Facility.

If you have any questions, please contact Michael Mintzer of EPA's Office of Regional Counsel by telephone at 212-637-3168 or by e-mail at [mintzer.michael@epa.gov](mailto:mintzer.michael@epa.gov).

Sincerely yours,



Nicoletta DiForte  
Senior Enforcement Policy Advisor  
Emergency and Remedial Response Division

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION  
NEWTOWN CREEK SUPERFUND SITE

State of \_\_\_\_\_:

County of \_\_\_\_\_:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that the Companies are under a continuing obligation to supplement its response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my Companies' response thereto should become known or available to the Companies.

\_\_\_\_\_  
NAME (print or type)

\_\_\_\_\_  
TITLE (print or type)

\_\_\_\_\_  
COMPANY NAME

\_\_\_\_\_  
SIGNATURE

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

[STAMP OR SEAL]





# NYSDEC SPILL REPORT FORM



DEC REGION: 2 SPILL NUMBER: 0808170  
SPILL NAME: 5700 MASPETH AVENUE LLC DEC LEAD: vszhune

CALLER NAME: CHIEF BERGAMINI NOTIFIER'S NAME: CHIEF BERGAMINI  
CLR'S AGENCY: FDNY HAZMAT NOTIFIER'S AGENCY: FDNY HAZMAT  
CALLER'S PHONE: (347) 539-0560 NOTIFIER'S PHONE: (347) 539-0560

SPILL DATE: 10/21/2008 SPILL TIME: 11:00 am DISPATCHER:   
CALL RECEIVED DATE: 10/21/2008 RECEIVED TIME: 12:02 pm MKSHERMA

## SPILL LOCATION

PLACE: 5700 MASPETH AVENUE LLC COUNTY: Queens  
STREET: 5700 47TH ST TOWN/CITY: New York City  
COMMUNITY: QUEENS  
CONTACT: CHIEF BERGAMINI CONTACT PHONE: (347) 539-0560

CONT. FACTOR: Unknown SPILL REPORTED BY: Fire Department  
FACILITY TYPE: Commercial/Industrial WATERBODY:

## CALLER REMARKS:

CALLER STATES THAT THERE IS ACTIVE SPILLING AND ILLEGAL STORAGE. THERE IS SPEEDY DRY ALL OVER BUT NOTHING HAS BEEN CLEANED UP, CALLER STATES THAT THIS HAS BEEN GOING ON FOR 10 YEARS. THEY HAVE 2 O/S FUEL TRUCKS FOR STORAGE AND FOR TRANSFERING FUEL TO VEHICLES. THE CATCH BASIN IN THE YARD HAS BEEN FILLED IN WITH DIRT. CALLER IS REQUESTING THAT SOMEONE FROM DEC CONTACT HIM ASAP.

| MATERIAL | CLASS     | SPILLED | RECOVERED | RESOURCES AFFECTED |
|----------|-----------|---------|-----------|--------------------|
| Diesel   | Petroleum | 0.00 G  | 0.00 G    | Soil,              |

## POTENTIAL SPILLERS

| COMPANY                 | ADDRESS                | CONTACT         |
|-------------------------|------------------------|-----------------|
| 5700 MASPETH AVENUE LLC | 5700 47TH ST QUEENS NY | CHIEF BERGAMINI |
|                         |                        | (347) 539-0560  |

| Tank No. | Tank Size | Material | Cause | Source | Test Method | Leak Rate | Gross Failure |
|----------|-----------|----------|-------|--------|-------------|-----------|---------------|
|----------|-----------|----------|-------|--------|-------------|-----------|---------------|

## DEC REMARKS:

10/21/08-Zhune visited the site, spoke to Rossana Bortone (718) 456-8636 owner of Almar Supplies. She said they will hired a contractor to do the cleaned up.

08/27/12-Environmental Management Solutions, Inc. sent the Limitted Subsurface Investigation Report dated January 23, 2009.

Six soil borings locations were selected according to visual petroleum related staining. All soil samples were collected at a depth of 1.5 feet(BGS).

There were olfactory inidcations of petroleum related contamination in samples S-1, S-5, S-6. The soil Analytical results identified samples S-1 and S-5, having seven and two VOCs respectively in excess of the limit. S-1 (Total xylenes 2500 ppb,



## NYSDEC SPILL REPORT FORM



**DEC REGION:** 2 **SPILL NUMBER:** 0808170  
**SPILL NAME:** 5700 MASPETH AVENUE LLC **DEC LEAD:** vszhune

1,3,5 Trimethyl Benzene 11000 ppb) and S-5(Total Xylene 34000 ppb, n-propylbenzene 3800 ppb, 1,2,5 Trimethyl Benzene 2300 ppb, 1,2,4 Trimethyl Benzene 58000 ppb, n-butylbenzene 11000 ppb, napgthalene 24000 ppb.

08/27/12- Environmental management Solutions, Inc. sent the Investigation Summary Report dated November 2010. On March 17 through 19 381.04 tons of contaminated soil was excavated. depth of excavation was approximately eight feet (Bgs). Groundwater was observed in the excavation and is estimated to be at 7 feet(bgs). Subsequent to the excavation of contaminate soil a total of five samples were collected around the perimeter of the pit approximately on foot from the floor of the excavation.

The endpoint soil analytical results indicated that there were no VOCs exceeding the limit.

There was no collection system encountered or any piping associated with the floor drain in the concrete pad.

08/27/12- Taylor Environmental sent the report for the instalation and sampling of a monitoring well date August 20, 2012. A groundwater sample was collected from the well. The groundwater analitycal result are within the accetable limit. Spill CLOsed.

PIN

T & A

COST CENTER

**CLASS:**

**CLOSE DATE:** 08/27/2012

**MEETS STANDARDS:** False



4/29/2008

57-00 47th St, Queens, NY 11378, USA

Image U.S. Geological Survey

Google earth

Imagery Date: 3/31/2008 40°43'13.34" N 73°55'22.29" W elev 13 ft eye alt 654 ft



6/23/2012

57-00 47th St, Queens, New York 11378 57-00 47th St, Queens, NY 11378, USA

Google Earth

Imagery Date: 6/23/2012 40°43'13.12" N 73°55'30.06" W elev 0 ft eye alt 605 ft